

STATE OF WEST VIRGINIA

At a Regular Term the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on September 5, 2019, the following order was made and entered:

RE: Provisional Adoption of and Request for Public Comment on Proposed Amendments to the Rules of Judicial Disciplinary Procedure 19-Rules-14

On August 29, 2019, the Judicial Investigation Commission, by Teresa A. Tarr, Counsel to the Commission, presented on an emergency basis proposed amendments to the **Rules of Judicial Disciplinary Procedure**.

On this day, the Court proceeded to consider the proposed amendments to **Rule 4.12** of the **Rules of Judicial Disciplinary Procedure**. The proposed amendments are supported by the West Virginia Public Employees Retirement Board. The Court is of the opinion that the proposed amendments should be provisionally adopted, subject to being published for a thirty-day period of public comment. Comments must be filed in writing with the Clerk of the Court on or before **October 11, 2019**.

The proposed amendments — deletions to the Rule — are indicated by strikethrough, to read as follows:

Rules of Judicial Disciplinary Procedure

Rule 4.12. Permissible sanctions.

The Judicial Hearing Board may recommend or the Supreme Court of Appeals may impose any one or more of the following sanctions for a violation of the Code of Judicial Conduct: (1) admonishment; (2) reprimand; (3) censure; (4) suspension without pay for up to one year; (5) a fine of up to \$5,000; or (6) involuntary retirement for a judge because of advancing years and attendant physical or mental incapacity and who is eligible to receive retirement benefits under the judges' retirement system or public employees retirement system. ~~Any period of suspension without pay shall not interfere with the accumulation of a judge's retirement credit and the State shall continue to pay into the appropriate retirement fund the regular payments as if the judge were not under suspension without pay.~~ An admonishment constitutes advice or caution to a judge to refrain from engaging in similar conduct which is deemed to constitute a violation of the Code of Judicial Conduct. A reprimand constitutes a severe reproof to a judge who has engaged in conduct which violated the Code of Judicial Conduct. A censure constitutes formal condemnation of a judge who has engaged in conduct which violated the Code of Judicial Conduct. The extent to

which the judge knew or should have reasonably known that the conduct involved violated the Code of Judicial Conduct may be considered in determining the appropriate sanction.

A True Copy

Attest: /s/ Edythe Nash Gaiser
Clerk of Court

